

**CHANGES IN PROCEDURES REGARDING
PRE-CONFIRMATION AMENDMENTS TO CHAPTER 13 PLANS
AND POST-CONFIRMATION MODIFICATIONS TO CHAPTER 13 PLANS**

EFFECTIVE DATE: JANUARY 16, 2006

The Court has adopted uniform procedures with regard to pre-confirmation amendments to Chapter 13 plans and post-confirmation modifications of such plans. The new procedures may be followed now but must be followed with respect to all Chapter 13 plan amendments and modifications filed on and after January 16, 2006.

In these materials, the word “amendment” refers to an amended Chapter 13 plan filed prior to confirmation. The word “modification” refers to the modification of a confirmed Chapter 13 plan. The materials are divided into the following parts:

1. A comparison of existing procedures with the procedures that become mandatory on January 16, 2006;
2. Pre-confirmation amendment instructions, including a form of amendment if the amended plan is not entirely restated; and
3. Post-confirmation modification instructions and forms.

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COMPARISON OF EXISTING PROCEDURES WITH THE NEW PROCEDURES

1. Location of Chapter 13 Plan Events in ECF. Until now, the Plan category on the main bankruptcy menu in ECF contained a Chapter 13 plan Event and the Other category contained an amendment Event for Chapter 13 plans.

NEW PROCEDURE: There are now three Chapter 13 plan Events located in the Plan category:

- 01 Chapter 13 Plan - Initial Plan
- 02 Chapter 13 Plan - Pre-Confirmation Amendment
- 03 Chapter 13 Plan - Post-Confirmation Modification/Notice

2. Service. Until now, the Clerk has served only the initial Chapter 13 plan, and Debtors’ attorneys have served all subsequent amendments and modifications.

NEW PROCEDURE: Effective immediately, the Clerk will serve all amendments and modifications of Chapter 13 plans, in addition to all initial plans.

3. Form of Pre-Confirmation Amendments. Pre-confirmation amendments to plans

often change plan provisions, such as increasing or decreasing the percentage payments to unsecured creditors, without informing creditors what the existing plans stated.

NEW PROCEDURE: Debtors' attorneys are encouraged to file a completely restated amended plan so that the amended plan contains the entire plan. Nonetheless, a pre-confirmation amendment may be limited to only those provisions that are added to the plan or that delete or alter plan provisions, but such a "short-form" amendment must quote the language to be changed or deleted, if any, and the language to be added, if any. An amendment to a plan may not contain schedules or other filings that have their own event. File amendments to schedules separately.

4. Post-Confirmation Modifications. Procedures for handling post-confirmation modifications to Chapter 13 plans have not been entirely uniform among chambers.

NEW PROCEDURE: The Court has adopted standard forms of a notice and a request for approval of a modification, which are attached below. The highlights of the new procedure are as follows:

A. A proposed modification must quote the language in the confirmed plan to be changed or deleted, if any, and the language, if any, to be added.

B. If the filer is represented by an attorney, the document containing the proposed modification must also include as its first page a notice containing the date, time and place of the hearing on the proposed modification, which the attorney will select from the list of such dates and times posted on the judge's page on the Court's website. **The hearing date selected must be at least 30 days after the date on which the notice and proposed modification are filed.** When filing the proposed modification and notice electronically, the attorney must complete the blanks for designating the hearing date, time and location.

C. Pro se debtors filing modifications are not to include a notice of hearing. Instead, the Court will prepare the notice.

D. If no objection to the modification is timely filed, the debtor's attorney and the debtor are not required to appear at the scheduled hearing.

E. The Court will enter an order approving or disapproving a modification.

F. The same procedures apply to post-confirmation modifications filed by a Chapter 13 Trustee or an unsecured creditor.

PRE-CONFIRMATION AMENDMENT INSTRUCTIONS AND FORM

1. Preparing the Proposed Amendment. The strongly preferred form of amendment is to restate the entire plan because creditors then have only one document to which to refer. Each Amended Plan should be numbered, e.g., First Amended Plan, Second Amended Plan, Etc.

Notwithstanding that the preferred method of amending a pre-confirmation plan is to restate the entire plan, a debtor may choose to file an amendment that omits those portions of the plan unaffected by the amendment. If this option is chosen, however, the amendment must quote the portion of the existing plan to be altered in addition to the new language constituting the amendment. The form shown below should be used if the plan is not restated in its entirety.

2. Schedules Not to be Combined with Amendments. Do **NOT** include amended schedules with a Pre-Confirmation Amendment; file those documents separately.

3. Notice. Remember that creditors are entitled by Bankruptcy Rule 2002(b) to “not less than 25 days notice by mail of . . . the time fixed for filing objections and the hearing to consider confirmation of a . . . chapter 13 plan.” Hence, if the proposed amendment adversely affects any creditor, failure to file the amendment in time to give proper notice as required by Rule 2002(b) could render the amendment a nullity as to the affected creditor, even if the plan is confirmed.

[Caption]

[FIRST] AMENDED PLAN

John Doe, Debtor, having filed the initial plan on [DATE] [if applicable: and having filed prior amendments on [LIST DATES]], hereby amends the plan in this case as follows:

[Explain proposed amendments in detail. Quote each paragraph in the initial plan or prior amendment that the proponent proposes to change (whether by insertion or deletion) and set out each amended or new paragraph to be included in the plan.]

The portions of the plan (including prior amendments, if any) not altered by the present amendment remain unchanged.

Dated: _____

Name and Bar Number

Attorney for _____

Address, etc.

POST-CONFIRMATION MODIFICATION PROCEDURES AND FORMS

1. Preparing the Proposed Modification. Use the attached form entitled “Post-Confirmation Modification of Plan and Request for its Approval.” Note that a modification must quote any provision in the confirmed plan that is to be modified or deleted and state any new provision to be added. Alter the form if the proponent is the trustee or an unsecured creditor. **Do NOT include amended schedules with a Proposed Post-Confirmation Modification; file those documents separately.**

2. Preparing a Notice of Proposed Modification. This procedure applies only to attorneys; pro se debtors should not prepare a form of notice. Attorneys should use the attached form of notice. Select a date for the hearing on the proposed modification that is at least 30 days after the date of filing. Hearings on post-confirmation modifications are held on the same days as the Court holds hearings on confirmation of Chapter 13 plans BUT NOTE that the hearing time for modifications is different. Each judge maintains his or her own list of available hearing dates and times that may be accessed on the Court’s website or may be obtained from the judge’s chambers. NOTE ALSO: The form of Notice also requires the filer to insert the date on which the notice and proposed modification are being filed. It is from this date that the time to object runs.

3. Serving a Modification and Filing a Certificate of Service is NOT Required. The Court will serve all modifications and notices of hearings on modifications.

4. Electronic Filing of Proposed Modifications and Notices. This procedure applies only to attorneys who file electronically. File a combined document containing the notice and the proposed modification in the Plan category under the Event: 03 Chapter 13 Plan - Post-Confirmation Modification/Notice. In the process of filing, schedule the hearing on the proposed modification for the date and time stated in the Notice.

5. Non-Electronic Filing of Proposed Modifications and Notices. An attorney who does not file electronically should file a combined document containing the notice and the proposed modification. The notice must contain an appropriate hearing date and time. A pro se debtor should file only the proposed modification.

6. Attendance at Hearing. The proponent of a modification is **not** required to be present at the scheduled hearing on that modification unless a response opposing the modification has been timely filed. If a modification to which no objection is filed is unacceptable, the Court may inform the proponent to be present at the hearing, reschedule the hearing or disapprove the modification without a hearing, particularly if it cannot be approved as a matter of law. The Court will prepare orders with respect to modifications.

[Caption]

**POST-CONFIRMATION MODIFICATION OF PLAN
AND REQUEST FOR ITS APPROVAL**

John Doe, Debtor, proposes to modify the confirmed Chapter 13 plan in this case as set forth below and requests that this modification be approved.

MODIFICATION OF PLAN

John Doe, Debtor, hereby modifies the Chapter 13 Plan, which the Court confirmed on [DATE OF ENTRY OF CONFIRMATION ORDER], as follows:

[Explain proposed modifications in detail. Quote each paragraph in the confirmed plan that the proponent proposes to change (whether by insertion or deletion) and set out each modified or new paragraph to be included in the plan as modified.]

Dated: _____

Name and Bar Number

Attorney for _____

Address, etc.

[Caption]

**NOTICE OF FILING OF MODIFICATION OF CONFIRMED PLAN,
DEADLINE FOR FILING WRITTEN OBJECTIONS AND
HEARING DATE AND TIME IF OBJECTION IS TIMELY FILED**

To: Creditors and Other Parties in Interest

PLEASE TAKE NOTICE that Debtor has filed a proposed modification to the confirmed plan in this case, a copy of which modification you are receiving with this Notice or have recently received by mail. Pursuant to Rule 3015(g) of the Federal Rules of Bankruptcy Procedure, any creditor or other party in interest opposing this proposed Modification must file that objection in writing with the Court on or before the following deadline.

DEADLINE FOR FILING OBJECTION: Twenty-three (23) days after the date on which this proposed Modification was filed. The proposed modification was filed on **[Date of Filing of Modification]**. If the twenty-third day after the date of filing falls on a week-end or holiday, the deadline is extended to the next business day.

PLACE OF FILING: Clerk, United States Bankruptcy Court
Room 1340 United States Courthouse
Richard B. Russell Building
75 Spring Street, SW
Atlanta, GA 30303-3367

[For the other Divisions, substitute the correct address of the Clerk's office.]

If you mail an objection to the Court for filing, you must mail it early enough so the Court will receive it on or before the deadline stated above.

You must also serve a copy on the undersigned at the address stated below and on the Debtor at: **[Address of Debtor]**.

PLEASE TAKE FURTHER NOTICE that if an objection to the proposed Modification is timely filed, the Court will hold a hearing on the modification on **[Date of Hearing]** at _____.m. in Courtroom ___, U.S. Courthouse, 75 Spring Street, Atlanta, Georgia. **If no objection is timely filed, the Court may approve the proposed modification without further notice or hearing.**

Date: _____

Name and Bar Number
Attorney for _____
Address, etc.